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4 MICHAEL WALTER BERGER,
5 Plaintiff,

6 v.
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8 JEFFREY BEARD,
9 Defendant.
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11 Case No. 15-cv-0681-TEH
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13 ORDER DENYING MOTION TO
14 APPOINT COUNSEL, GRANTING
15 EXTENSION

16 Re: Dkt. No. 24
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18 Plaintiff, a former state prisoner has filed a motion to
19 appoint counsel. A district court has the discretion under 28
20 U.S.C. § 1915(e)(1) to designate counsel to represent an indigent
21 civil litigant in exceptional circumstances. See Wilborn v.
22 Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986). This requires
23 an evaluation of both the likelihood of success on the merits and
24 the ability of the plaintiff to articulate his claims pro se in
25 light of the complexity of the legal issues involved. See id.
26 Neither of these factors is dispositive and both must be viewed
27 together before deciding on a request for counsel under § 1915
28 (e)(1). Here, exceptional circumstances requiring the
appointment of counsel are not evident. The request for
appointment of counsel is therefore DENIED.

29 Plaintiff will be provided an extension to file an
30 opposition to the motion for summary judgment. Plaintiff shall
31 file the opposition by January 25, 2016. The Clerk shall send
32

1 Plaintiff a copy of the memorandum of points and authorities for
2 summary judgment (Docket No. 21-1).

3 This order terminates Docket No. 24.

4 IT IS SO ORDERED.

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6 Dated: 12/23/2015

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THELTON E. HENDERSON
United States District Judge